

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: NOVEMBER 21, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-24561 – APPLICANT/OWNER: LOPEZ FAMILY TRUST**

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**\*\* CONDITIONS \*\***

The Planning Commission (5-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**Public Works**

2. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainage ways as recommended.

## \*\* STAFF REPORT \*\*

### PROJECT DESCRIPTION

This application is a request for a Variance (VAR-24561) to Title 19.08.040 to allow a proposed Class II Non-Habitable Accessory Structure exceed 50 percent of the floor area of the principal dwelling by building a 2,160 square-foot detached accessory structure, where 1,534 square feet is the maximum allowed. Since the proposed structure in a reduced size would conform to Title 19.08.040, Staff recommends denial of this request.

### BACKGROUND INFORMATION

<i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i>	
No city actions are related to this parcel.	
<i><b>Related Building Permits/Business Licenses</b></i>	
02/08/95	HVAC, Plumbing, Electric (94323446, 943231139, 94321361)
02/17/95	Single Family Dwelling (98004849)
05/20/96	Masonry Wall (96007327)
05/04/07	512 SF Room Addition (86911 Status – Open)
08/30/07	Detached Storage/Garage 5000 SF Structure (97060 Status-Open)
<i><b>Pre-Application Meeting</b></i>	
09/11/07	The applicant was advised of submittal requirements and meeting dates.
<i><b>Neighborhood Meeting</b></i>	
A neighborhood meeting was not required, nor was one held.	

<i><b>Field Check</b></i>	
09/18/07	A field check to the site was made with the following observations: Existing single-story single family dwelling on a large corner lot. The change in grade from back to front was negligible.

<i><b>Details of Application Request</b></i>	
<i><b>Site Area</b></i>	
Net Acres	.51

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single Family Residential	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Single Family Residential	DR (Desert Rural Density Residential)	R-E (Residence Estates)

South	Single Family Residential	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Single Family Residential	Clark County	Clark County
West	Single Family Residential	DR (Desert Rural Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>		X	
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>	X		Y
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

**Rural Preservation Overlay District** - Density is not affected by this project and does not require application of the requirements of the Rural Preservation District.

#### DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 sq. ft.	20,042 sq. ft.	Y
Min. Lot Width	100 Feet	103 Feet	Y
Min. Setbacks for Accessory Structure <ul style="list-style-type: none"> <li>Side &amp; Rear Property Lines</li> </ul>	3 Feet	33 Feet 10 Feet 14 Feet	Y N/A N/A
<ul style="list-style-type: none"> <li>Separation from Primary Structure</li> </ul>	6 Feet	27 Feet	Y
Max. Accessory Structure Size (50% of 3,069 sq. ft. primary structure)	1,534 sq. ft.	2,160 sq. ft.	N
Max. Accessory Structure Height	1-story/18 feet (primary structure height)	16 feet 3 inches	Y

#### ANALYSIS

The applicant is seeking approval to construct a 2,160 square-foot Class II Detached Accessory structure in the backyard of an existing 3,069 square foot single family dwelling located at 7800 West Rosada Way. The allowable square footage for a detached accessory structure based on 50% of the habitable space in the existing single family dwelling would be 1,534 square feet. The proposed structure at 2,160 square feet is 626 square feet larger than allowed. Additionally, the structure is a metal building of industrial design that is architecturally incompatible with the existing stucco home, although the metal structure will be painted to match the existing single family dwelling.

Although the proposed detached accessory structure complies with the required setbacks from the side and rear property lines and primary structure, the building exceeds the allowable 50% of the habitable area of the primary dwelling. The proposed 2,160 square foot Class II Detached Accessory structure is more than half the floor area of the primary structure.

The request for the Variance stems from a personally-created hardship that could be eliminated with alternative designs. Therefore, staff recommends denial.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a Class II Detached Accessory Structure that is oversized in height and floor area in comparison to the existing primary structure. An alternative proposal in reduced height and floor area would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **PLANNING COMMISSION ACTION**

There were speakers at the Planning Commission meeting. If approved, subject to new elevations.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 4

**SENATE DISTRICT** 6

**NOTICES MAILED** 145 by City Clerk

**APPROVALS** 6

**PROTESTS** 5